

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent 6,353,038

Allan AHO et al.

Serial Number: 09/446,630

Issued: March 5, 2002

For: NOVEL PLASTIC BASED COMPOSITE AND ITS USE

DECLARATION OF CHRISTINA SUNNERCRANTZ

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Christina SUNNERCRANTZ, hereby declare as follows:

1. I have been employed by Patrafee AB ("Patrafee") since 1986. My current position is Team Manager in the Patent Annuities and Renewals Department.
2. My responsibilities as Team Manager in the Patent Annuities and Renewals Department is to ensure the intellectual property rights of our clients are maintained by timely and accurate payment of annuity fees in accordance with our clients' instructions and pursuant to our agreements with our clients.

Patrafee AB

3. Over the course of more than 30 years, Patrafee has developed an expertise in docketing, paying and monitoring annuity fees on a worldwide basis for owners of patents, trademarks, designs and domain names. See Exhibit A, attached.

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4. An advantage of using Patrafee's annuity payment service is that a patent owner or law firm does not have to develop and maintain its own procedures and in-house know-how to docket, monitor and pay annuity fees, including U.S. maintenance fees. Instead, the patent owner can reasonably rely upon Patrafee's knowledge and procedures to ensure timely payment of these fees.

Patrafee's Annuity Docketing Procedures

5. Turun Patenttitoimisto Oy ("Turun") is a member of the Berggren Group, a Finnish intellectual property law firm ("Berggren"). Both Turun and Berggren rely upon Patrafee to docket, monitor and timely pay annuity fees for the patent applications and issued patents of their clients. Berggren has authorized Patrafee to contact its clients, including Turun's clients, directly for this purpose.

6. On information and belief, Turun would send all necessary information concerning a new annuity case, i.e., a newly-filed patent application or newly-issued patent, to Patrafee by regular mail during 2002. The necessary information typically includes the country of filing, the application number, the application filing date, the patent number, its issue date, the patent owner and its docket or reference number.

7. An employee in Patrafee's Patent Annuities and Renewals Department would then enter the necessary information for the new annuity case into Patrafee's computer system, whose software would calculate the applicable annuity payment dates for that patent application or issued patent. The computer system would

generate a register report listing these annuity payment dates for the new annuity case.

8. A Patrafee IP Administrator would check the register report for accuracy when it was first generated. Patrafee would also send two copies of the register report to Turun as an external check for accuracy. Turun would confirm the accuracy of the data listed in the register report by returning a signed register report to Patrafee. Patrafee assumes responsibility for the new annuity case once the signed register report is received from Turun.

9. On information and belief, Patrafee and Turun followed these annuity docketing procedures during the course of docketing maintenance fee payment dates for U.S. Patent 6,353,038 ("the '038 patent") into the Patrafee computer system. Thus, the correct payment dates, the correct patent number and the client's correct docket reference ("Sulamuovi") for the '038 patent were all correctly entered into Patrafee's computer system.

Patrafee's Annuity Payment Procedures

10. Once a new annuity case is in Patrafee's computer system, timely annuity reminders are automatically created and sent to the client. The annuity reminder lists each annuity fee, including any U.S. maintenance fees, which will become due in the next few months for the patents and pending applications owned by that particular

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client. An annuity case remains in Patrafee's computer system until and unless the client instructs Patrafee in writing to abandon the patent or pending application.

11. In the absence of an agreement to the contrary, it is the client's responsibility to instruct Patrafee which annuity fees are to be paid and which are not to be paid. Under this "default" system, Patrafee will not pay any fee without specific instructions to do so.

12. Patrafee also offers a more secure annuity payment system than its default system. Under this more secure system Patrafee pays all annuities in the absence of an express instruction not to pay a specific annuity. Thus, no client instructions are necessary to ensure timely payment of all annuities. The owner of the '038 patent, Vivoxid Oy ("Vivoxid"), contracted for this more secure annuity payment system in an agreement with Patrafee ("the Agreement") on March 13, 2003. Under the Agreement Patrafee would send its annuity reminders directly to Vivoxid, and would pay all annuities listed on its annuity reminder automatically unless Vivoxid timely instructed Patrafee in writing that one or more specific patents or pending applications listed in the annuity reminder was to be allowed to lapse.

13. When a client instructs Patrafee to abandon a patent or pending application, Patrafee will mail a confirmation letter to the client stating the case is to be abandoned. The confirmation letter identifies the case to be abandoned by its patent or application number, and typically by the client's reference or docket number. The

confirmation letter expressly states the case is being abandoned, and that it is being removed from Patrafee's records.

14. Patrafee will also send a copy of the confirmation letter to the intellectual property law firm(s) responsible for filing, prosecuting and obtaining the patent or pending application.

Mr. Peter Holmqvist

15. On information and belief, Mr. Peter Holmqvist was employed from March 1987 to September 1995 as an Annuity Department Manager at Kolster Oy Ab, a Finnish intellectual property law firm.

16. Mr. Holmqvist was employed by Patrafee for almost 17 years. From September 1995 to February 1998, Mr. Holmqvist was a Country Manager, from February 1998 to December 2009 he was a Key Account Manager for Patrafee's Finnish clients, and from December 2009 to April, 2011 he was a Senior External Pricing Manager.

17. Mr. Holmqvist's responsibilities as Key Account Manager in Patrafee's Patent Annuities and Renewals department included docketing, monitoring and payment of annuities on behalf of Patrafee's Finnish clients. Accordingly, he was the Patrafee employee who would send Vivoxid its annuity reminders, and otherwise communicate with Vivoxid concerning payment or non-payment of annuity fees for patents and pending applications owned by Vivoxid at the time the '038 patent's second maintenance fee became due.

18. I have worked with Mr. Holmqvist during all the time he was employed by Patrafee. At the time the '038 patent's second maintenance fee became due, Mr. Holmqvist had many years of experience handling annuity payments, and was very well trained in all aspects of Patrafee's annuity docketing, monitoring and payment procedures. He was reliable and performed his work with great accuracy.

Non-Payment of the '038 Patent's Second Maintenance Fee

19. The first maintenance fee for the '038 patent was due September 5, 2005. Patrafee timely paid this fee on behalf of Vivoxid on August 12, 2005. See Exhibit B.

20. The second maintenance fee for the '038 patent was due September 5, 2009. Exhibit I is a Patrafee reminder dated March 5, 2009 to Vivoxid which correctly lists the '038 patent, its second maintenance fee due date of 5 September 2009, and Vivoxid's patent family reference "Sulamuovi". Under the terms of the Agreement, Patrafee would pay the '038 patent's second annuity unless specifically instructed by Vivoxid to permit the '038 patent to lapse.

21. Shortly after Exhibit 1 was mailed, Vivoxid informed Mr. Holmqvist that 2 Vivoxid patent families ("Ti-geeli" and "Lonkkaprotpinnoitus") were to be abandoned. See Exhibit 2, which is an e-mail dated March 12, 2009 from a Vivoxid employee, Jimmy Lucchesi to Peter Holmqvist.

22. Mr. Holmqvist used the wrong Vivoxid reference ("Lonkkaprotpinnoitus" instead of "Sulamuovi") with the '038 patent in a subsequent e-mail (Exhibit 3) addressed to

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Mr. Lucchesi which acknowledged Mr. Lucchesi's instructions not to pay the annuities for the "Ti-geeli" and "Lonkkaprotpinnoitus" patent families:

"In September only one: US 6353038 Lonkkaprotpinnoitus"

23. On information and belief, Mr. Lucchesi mistakenly instructed Mr. Holmqvist to abandon the '038 patent based on the incorrect "Lonkkaprotpinnoitus" Vivoxid reference in Mr. Holmqvist's e-mail (Exhibit 3). Mr. Lucchesi's instruction to abandon the '038 patent (Exhibit 4) does not include the '038 patent number; instead it simply refers to "that September payment".

24. Mr. Holmqvist then forwarded the information to the head address, info@patrafee.com, for which Ms. Maj-Len Bussman, an IP Administrator in Patrafee's Patent Annuities and Renewals Department was responsible that specific day, that the '038 patent was to be permitted to lapse. See Exhibit 5.

25. Patrafee's standard procedures for abandoning a client's patent were followed. Thus, Patrafee mailed a confirmation letter correctly identifying the '038 patent by number and also by its "Sulamuovi" reference to Mr. Lucchesi of Vivoxid (Exhibit 6). A copy of the confirmation letter (Exhibit 7) was mailed to Turun, and a similar letter (Exhibit 8) was mailed to Turun's U.S. patent counsel, James C. Lydon.


26. On information and belief, Vivoxid either did not receive or misplaced Exhibit 6.

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27. Patrafee did not receive any response to its confirmation letter. Accordingly, the '038 patent was removed from Patrafee's computer records, and permitted to lapse by non-payment of its second maintenance fee.

28. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. These statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the '038 patent.

Signed this 26 day of April, 2012.



Christina Sunnercrantz

EXHIBIT A

Patent annuity payment services

By monitoring and paying fees for intellectual property rights on your behalf we save you time and money and give you greater security.

One contact is all you need

Renewing intellectual property rights takes a great deal of administration and there is no reason why you should have to do this yourself. We are experts in paying and monitoring annuity and renewal fees for patents, trademarks, designs and domain names.

Outsourcing to Patrafee saves you time and reduces your costs. You will also gain significantly greater security, as there will be virtually zero risk of missing a payment. Another benefit will be that you will reduce all your payment channels, registrars, agents and patent offices to one single contact – Patrafee.

Save time in-house

You will save having to keep a check on fees, payments, dates, rules and deadlines that vary from country to country and subject to frequent changes. Patrafee takes care of everything. You also will not have to develop and maintain your own procedures and in-house know-how.

Save costs

There is no scope to do anything about official charges but we are often able to get a reduction in fees around the world thanks to the volumes we handle. And as the Patrafee system is also available to our thousands of customers, the cost of monitoring is low compared with the resources you would have to allocate in-house.

Standing order payment service

Our standing order system means you can forget about spending time on annuities and renewals during the intellectual property rights life cycle. As long as you wish to retain the rights you can relax and leave the work to Patrafee. We will continue to renew and pay until such time you notify us otherwise – a solution that means the minimum of work for you, and the maximum security.

Better overview

Having all your intellectual property rights organised in one place gives you a better overview compared with a fragmented model. Which means you can work more strategically with the business opportunities your IP portfolio affords. It is also easier to keep on top of budgets and costs when you only get invoiced from one supplier.

We are the IP experts

Having worked closely with leading IP law firms for over three decades we know the sector inside out. In terms of breadth and security, the potential IP law firm/Patrafee combination is unbeatable.

We have developed our services in consultation with IP law firms, and customised them to both the IP sector, IP departments in-house at companies and individual innovators.

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EXHIBIT B

MAINTENANCE FEE STATEMENT

According to the records of the U.S. Patent and Trademark Office (USPTO), the maintenance fee and any necessary surcharge have been timely paid for the patent listed below. The "PYMT DATE" column indicates the payment date (i.e., the date the payment was filed).

The payment shown below is subject to actual collection. If the payment is refused or charged back by a financial institution, the payment will be void and the maintenance fee and any necessary surcharge unpaid.

Direct any questions about this statement to: Mail Stop M Correspondence, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450.

PATENT NUMBER	FEE AMT	SUR CHARGE	PYMT DATE	U.S. APPLICATION NUMBER	PATENT ISSUE DATE	APPL. FILING DATE	PAYMENT YEAR	SMALL ENTITY?	ATTY DKT NUMBER
6,353,038	\$450.00	\$0.00	08/12/05	09/446,630	03/05/02	02/23/00	04	YES	TUR-087